

# THE SHERMAN ANTI-TRUST LAW AND THE BUSINESS OF THE COUNTRY

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We are witnessing in the Twentieth Century more universal, insistent and determined demands on the part of the masses everywhere for extension of civil and political rights, than at any time in history. There seems to be a world-wide movement of general dissatisfaction and of social unrest, finding expression in many ways. In some countries the struggle is for freedom and political rights; in others, where liberty and freedom already are enjoyed, the tendency is towards socialism, or towards the destruction of special privilege and the distribution of opportunity, if not of property. It is futile to blind ourselves to these facts, and vain to oppose the forces which underlie them. In order that we may understand the full meaning of these movements, it may be well to go back to their origin and trace their course down to an application to the problems confronting us. Possibly in the light of history thus revealed we may see more clearly the ultimate destination, and be able thereby so to direct the movement as to secure the greatest good to all, with the least possible injustice to any.

The significance of this world-wide unrest may be summed up in a phrase. It is an awakening of the people; a realization of their power and supremacy. That the movement in this country to regulate and control capital eventually will result in good to the masses cannot be doubted. The history of all similar movements in the past proves it. It would seem, therefore, to be the duty of all who influence public opinion, and have power to lead and mould it, to seek not so much to check the movement as to direct its course in such manner that the blindly instinctive impulses of human nature may not destroy the economical organizations of capital, which are useful in commerce and absolutely essential to the national welfare, but that the good in them may be preserved for the benefit of each individual in his struggle for subsistence. If the influential and thoughtful men, in public and private life, could seize and hold to this idea, laying



aside all hysteria and political buncombe on the one hand, and abandoning all opposition or defiance of popular authority and power on the other hand, and work in co-operation, substantial progress could and quickly would be made.

From the Reformation down to the middle of the Nineteenth Century the great factors which stimulated the spirit of inquiry in respect of the civil rights and privileges of mankind were (1) the Revival of Letters; (2) the Development of the Art of Printing; and (3) the Extension of Geographical Knowledge. Nearly every half-century of that period witnessed progress and development of social relations, increasing security in personal and property rights, and a higher general level of welfare. There were periods when the tides of progress rose in higher and higher floods, and then there would come the inevitable ebbs. Every forward impulse, however, marked substantial gains; humanity advanced and firmly set foot upon higher ground. Periods of stagnation, or of apparent retrogression, were but the intervals required for the people to grasp and incorporate for their permanent benefit new political ideas into the structure of society.

Let us analyze briefly the nature of these factors, which for three hundred years so powerfully influenced social and political conditions, and whose influence is ever increasing and becoming more and more powerful. We find at a glance that they constitute a triumvirate of the greatest forces in human progress. The Revival of Letters supplied the means of intelligence to the people; the Printing Press caused intelligence to become disseminated, gradually and very slowly at first, but surely and always in widening circles. Geographical Discoveries gave opportunity in new lands for the application of knowledge and the development of trade. The opportunity being seized, another long step forward was made. Through such successive steps political rights were increased, trade extended, wealth accumulated and society advanced. Thus we find that not in knowledge on the part of priests alone, nor in divine rights on the part of kings, but in the enlightenment of the whole mass of the people lie the mainsprings of progress and the torchlights of civilization.

During no similar period in the past have these forces been so active and influential as during the sixty years which include the last half of the Nineteenth and thus far into the Twentieth Century. At no time have the direct purposes of the people been more clearly

defined. Never have they moved with greater certainty of success. But the inventions and discoveries which have been made during the period mentioned have been so remarkable, and they have so wonderfully developed the complexity of our social, political and industrial relations, that new impetus, accelerated power, and vastly increased influence have been given to the forces which were continuously at work, until now they have become irresistible. The best that can be done is properly to direct them for the common good. These forces, acting under the stimuli of new inventions and discoveries, have created a series of new problems encompassing nearly every conceivable condition and aspect of human interest and activity. It will become the task, and it is the duty, of the student, the scholar, and of the practical and thoughtful man of business, to solve them. It must be done patiently and calmly, in the light of knowledge and experience, and in a spirit of unselfish patriotism, with an earnest desire for the commonweal. It is certain that much of the current discussion leads to no solution of the vital problems while it tends only to obscure the real questions at issue and to confound the whole subject.

Among the multitude of new problems, one group stands out conspicuously and demands immediate consideration and solution, because there are directly involved the trade and commerce of the country, which now languish, and upon the free and uninterrupted course of which national welfare and prosperity depend. The question, therefore, is vital. As to those various other groups, political and social, time in its process of testing, grinding and sifting, will be the great elaborator of truths and measures.

The general topic of this discussion, "Competition and Combination in Industry and Commerce," embraces the whole group of pressing problems to which I have referred. That portion of it dealt with in this paper permits but a glimpse of the other questions, but it bears so directly upon trade that it assumes a degree of importance out of all proportion to the mere question itself.

"Has the Enforcement of the Anti-Trust Act Been of Benefit to the Country?" In fairness, the answer should be partly affirmative and partly negative. If the determination of the question as a whole depends, however, upon the preponderance of good or of evil which has resulted from its enforcement thus far, or which may result hereafter, the matter becomes merely one of opinion, and the truth is

obscured in doubt. We may readily see much of apparent good that has been accomplished, or, rather, results that were thought to be good, some of which undoubtedly are good; but the extent of resulting evils likely to develop in the future, while not less certain, is not easily measured. We know that the day of arrogance and oppression on the part of organized capital in this country has passed forever. We know that corporate monopoly of the necessities of life has ceased, or will cease under the enforcement of this act. We know that the act is useful, in that it places in the hands of government the power to prevent oppression and injury to the rights of all to compete in trade. We know that these things are good, but we do not know to what harmful ends a strict enforcement of the act may lead. I believe that such enforcement is impracticable, if not actually impossible, and that it would be subversive of the best interests of the public, and destructive of our trade. The point which most concerns each individual, and consequently the state, is what effect the enforcement which is now actually asserted will have upon the prices of the necessities of life and upon wages. This is the real issue, and the question is open.

Under the complex conditions already described, the requirements of our ninety million people, whose wealth and numbers are increasing, have become enormous and will continue to grow. The production, manufacture and distribution of these requirements have made necessary combinations of large capital for purposes of efficiency and economy and for the legitimate gains to be derived from the employment of these factors in trade, rather than for the purpose of raising prices. Indeed, it cannot be shown that trusts which are not actual monopolies have increased the prices of their products on the whole in greater proportion than the costs of raw materials and of labor purchased by them have increased. As to the causes of these increases we shall inquire further.

In so far as our domestic trade is concerned, it is by no means certain that we can afford to sacrifice the economic benefits gained through the trusts, and to disregard the natural laws of competition and production which brought them into existence, in exchange for the apparent benefits derived. Time alone can determine this question. But it is perfectly certain that we cannot afford to do so in respect of our foreign commerce, for there we come in competition with goods manufactured in foreign countries where trusts and monopolies not

only are permitted but are fostered and encouraged, and where also there are lower wage scales. The combined influences of two such handicaps on our foreign commerce will be reflected most seriously in our trade balances.

Of course, we may enact and enforce statutes either in ignorance or in defiance of economic laws, but we cannot thereby suspend their operations, nor escape the consequences of their violation. We lack no experience of this truth in respect of our monetary statutes, and the experiences of the past will be renewed from time to time until our statutes shall be made to conform to natural laws.

These contentions undoubtedly are sound, but however interesting it might be to follow them, it will be of greater practical benefit to pursue a different line of thought. The fact of public hostility towards trusts, monopolies, and big business generally, and a determination to control them even at the cost of destruction, might better be admitted, and the time thus gained be employed in seeking the cause of this attitude and in endeavoring to find the best method of dealing with it.

The enormous increase in the cost of living within the past ten or twelve years has been felt by all classes, and particularly by wage earners and those possessing fixed incomes. During that period trusts and combinations have flourished and multiplied. The manufacturers of nearly every necessary of life have grouped and combined, always with the apparent result of raising prices and the cost of living. The public has groaned under this burden, which now has become intolerable. A change is demanded; and a change there will be. In fact, it already has come. But unfortunately the change probably will be for the worse. Certainly there is no evidence thus far that it will be for the better. When this is discovered, as it will be in time, public resentment may know no bounds, because of disappointment and failure. The people have been misled in matters of cause and effect on prices, and these are fundamental errors. The public has been told, and now believes, that the trusts have wickedly "raised prices," and therefore the public will destroy the trusts. The truth, in definite and concrete terms, is this: No trust or combination of capital, organized for the purpose of raising prices and thereby making extortionate profits in trade, could exist except through a virtual monopoly of some natural product. (Secret trade processes and patented inventions, which partake of the nature of natural monopolies,

do not and should not enter into this consideration.) In every case of a trust, competition has been, and always will be, inevitable; while the numbers of trusts virtually monopolizing any natural product in this country are so few that they may easily be identified and brought to book. The dangers from this source and from trust operations generally have been greatly overestimated. The one purpose alone which can bring into existence and sustain with profit any large combination of capital engaged in trade is the effecting of economies in manufacture, sale and distribution. Naturally these influences, even under the mildest and most nominal state of competition, would have a tendency towards establishing and maintaining stability of prices, and towards offsetting the upward pressure of other influences. But we know that there has been upward pressure sufficiently strong to overcome all the economies effected by the trusts and to bring enormous rises in prices. If it be not the trusts, it may be well to inquire what agencies are responsible for these rises.

This pressure has been exerted steadily and with increasing force by a number of perfectly well-defined influences, the aggregate weight of which amounts to many times the combined influences of all the trusts. Among these other influences, are:

I. The actual increase in the character and volume of our necessities, and in the consumption of our natural products. This may well be illustrated by the home consumption now of practically all our grain at one dollar or more per bushel, as against our former export of large quantities at fifty or sixty cents per bushel.

II. The increased cost of producing food and raw materials, because of increased land values, which in turn are due in large part to the extension of railways, and to the increasing radius of urban and suburban development through the use of the automobile and the trolley.

III. The increasing ratio of urban and suburban population, and the decreasing ratio of farm population, resulting in scarcity of productive farm labor and in an oversupply of non-productive clerical, half-educated, unskilled city labor.

IV. Our national habits of profligacy and extravagance; our constant indulgence in a higher, more expensive and luxurious scale of living, which in turn compel demands for increased wages and higher pay. This may well be illustrated by the increased per capita cost of administering municipal affairs. In sixty years this cost in New

York City has increased about twelve hundred per cent, or from about \$2.50 per capita to nearly \$30.00 per capita annually. Since this enormous increase falls on property owners and taxpayers, necessarily it entails higher rents, higher property values, higher costs of manufactured products and higher costs of living. These entail higher wages and still higher living costs. The one accentuates the other.

A better illustration may be found in the "enormous increase in the variety of expenditures for unproductive consumption." "Such, for example, are the family automobile and telephone, theatres and picture shows, jewels and extravagant dress; amusements, excursions, and vacations, societies, clubs, dinners and card parties," with an innumerable list of similar pleasures and entertainments, the maintenance of which is expensive in the matter of cash outlay and doubly so because their support requires the employment of many hundreds of thousands of individuals in unproductive pursuits, whose potential capacity to produce food or raiment for themselves and others not only is lost to the community, but whose own sustenance must be produced, manufactured, transported, sold and delivered by others.

In the consideration of all economic questions, and particularly those relating to the cost of living, there is one fundamental truth from which there is no escape, and that is that all which we eat and wear and subsist upon is at last, directly or indirectly, the product of the soil. As the soil producers decrease, and the non-productive consumers increase, the cost of necessities must continue to rise. Every individual consumer, whatever his station, his position, or his means, if he be not a producer himself of some necessary of life, is a charge upon those who are. In the working out of economic law that charge must be compensated. This fact is as certain and as inevitable as death itself.

#### V. The enormous increase in the production of gold.

Of this factor the public knows little or nothing, but its influence on prices is of the very greatest importance. It may be counted at present one of the dominating factors, but one whose influence may shortly be expected to diminish, because of the improbability of continued increases in production beyond the world's needs.

Due apportionment of the weight of these several influences on

prices, on the costs of living, and upon our economic problems generally, would seem to acquit the trusts of a very large part if not of all responsibility for these burdens. Indeed it is not at all certain that prices might not have been higher but for the trusts and for their economical production and distribution of goods; nor that prices of all manufactures may not rise still higher when the trusts have been disorganized. The question remains to be settled. But in proposing its settlement the facts should be kept in mind that the rise in prices has not been confined to commodities controlled by the trusts, and that rises in the case of trust-tainted goods have not been greater than they have been in farm products or in land values. Certainly the "Millers' Trust" did not put up the price of wheat; nor the "Spinners' Trust" the price of cotton; nor the "Packers' Trust" the price of cattle. It is well enough to say that in the cases of these and other similar raw commodities, whose production is not controlled by trusts, the rises were due to increased demands with which the trusts have nothing to do. Granted. But what is causing the increased demand except the forces enumerated, which are wholly extraneous of all trust influences? Are not these extra-trust influences equally operative in respect of the prices of manufactured goods of all kinds, whether controlled by trusts or not, and in respect of labor as well as of land values and farm products? The fact must be acknowledged, and it suggests much food for reflection, if it does not indeed supply conclusive evidence that the trusts have had but slight influence, if any at all, on the rise in prices.

It would require too much space and elaboration of detail to undertake to trace the combined effect of these extraneous influences on prices generally, or even upon the cost of a single manufactured article, but in view of its pertinence, and instructive value, it will be well worth while to examine the question briefly. Let us take the cost of a sirloin steak, served in a first-class Fifth Avenue restaurant to-day, as compared with the cost of it twenty-five years ago. In the first place the steer is bred and grazed for several years on land worth anywhere from ten to twenty dollars per acre, as against fifty cents to one dollar then. The investment in the breeding cattle has been more than doubled, the wages of herders increased, and the living expenses of the stockman doubled; the animal is transported north and fed upon corn which has doubled in price; the expenses of the feeder (and his helpers) have increased, his lands have doubled

or trebled in value. The animal is shipped to a central market and sold through a commission merchant, who adds his tolls. The packer buys and absorbs all additional costs up to this point. His initial outlay and interest charges are greater. He faces increased costs of butchering, refrigerating and distributing, because of higher rents (or land values), taxes, operating costs, labor (both common and skilled), and of every other element entering into the manufacture and sale. Then comes the retailer, with his increased rents and other expenses, including delivery. Finally, the caterer again with his higher rents, larger pay to chefs, stewards and help. Thus we see all along the line, from prairie range to dining table, a continuous accumulation of costs. Included in these items are at least five distinct increases due to higher rents and land values. First, the grazing land, then the farm, the packing plant, the retail shop, and the restaurant. There probably are fifty items of increase due to higher labor costs, and as many more in the matter of materials used in manufacture and transportation sale, and service. In each instance a small percentage of profit must be added on the increased outlay; thus each succeeding charge operates to compound all the preceding ones.

This illustration is typical. It might as aptly be made of a plate of oysters, of a silk dress, of a pair of shoes, or of a locomotive.

The illustration affords but a bare outline of the continuous piling up of charges by every hand through which an article passes. In absorbing the product the consumer absorbs all these charges, with their compounded and multiplied profits.

However much these facts may be deserving of consideration; however little influence the trusts, as such, may have had on the rise in prices, the people honestly believe that they have been the victims of corporate rapacity and greed. They believe, and not without some reason, that they have been plundered and oppressed. Few of us indeed are there who could honestly say in our own hearts that we have not known of some such instances. All of us do know that some years ago things were done and sanctioned by men acting in their capacities as directors of corporations, which they as individuals would have scorned to do. Happily, we have grown out of that. We have learned in such cases to hold the individuals themselves responsible, and this marks the beginning of the end of the practice. Just so, we have grown out of another and more primitive condition of

society, wherein cold-blooded murders were commonly committed "on the field of honor," under a code which permitted every man to be the judge and avenger of his own honor. I do not seek to defend corporate dishonesty, nor to justify their corrupt practices of the past, any more than to defend the duel; but merely to present an undistorted view of the fact that the tolerant state of society which permitted honorable assassinations a hundred years ago is closely related to a similar state of the public mind which until recently permitted and sanctioned the practice of dishonest corporate acts. It is the fashion now to proclaim the dishonesty of the men who did these things, and to cry aloud for their punishment, because public sentiment has changed and now demands corporate as well as individual honesty of purpose and of conduct. This is good, and as it should be; it is a distinct advance. But those of us whose grandfathers believed in and for the most part practiced the "code of honor" would scarcely be willing to admit that our ancestors were murderers at heart. I have heard men now living and occupying high places in the public service, whose honesty and integrity cannot be questioned, declare that the fortunes which they amassed while in trade came in a large part from railway and other rebates. Who, indeed, in the past has not enjoyed some such favors? Who, for instance, has not at one time or another ridden upon a railway pass, and while doing so thought it perfectly proper? Yet the majority of us, now not legally entitled to it, would consider it dishonest to accept a pass, would scorn to use it, and would look upon its offer as in the nature of a bribe. This is not because we are better than our fathers were, but only because the fashion has changed for the better. For this very reason, we should not, nor can we in fairness permit our judgments to become beclouded in respect of the honesty of men who labored even in recent times under different standards.

This change in sentiment on the part of the public does not relate to small manufacturers and dealers, because the public does not fear them as trade units, and does not understand what a tremendous factor they are in the general programme of price raising. Nevertheless, these small competitors while standing in the front ranks of reformers and accusers of the trusts, are exacting and successfully wringing from the public percentages of profits in their transactions which would put to shame the most rapacious monopoly. The operations of one big malefactor, or of a group of them, may be

conspicuous by reason of size, and therefore be easily assailable, while the operations of these small traders pass unnoticed, although in the aggregate they are far greater than those of the trusts and conducted by methods far more oppressive and predatory. Perhaps when the trusts have all been dissolved, and the expected fall in prices does not occur, the public may, in still further searching for causes, discover what a big factor these little fellows really are, and what an expensive piece of sentimentality it is, at the cost of the public, to maintain them with their limited distributing efficiency.

Attention already has been called to the inevitable failure to reduce prices by "busting the trusts," because a certain fundamental law of trade which called the trusts into existence in the first place, and which has made them an important, necessary and (in some form) permanent factor in trade, is ignored. That law is embodied in the inexorable necessity of meeting competitive prices and if possible overcoming them by reducing the cost of production and sale. It has been said that the tariff, which is an artificial law, is the "mother of trusts;" but if so, then the necessity of keeping down the costs of manufacture, which is the natural law of competitive trade, is their "father." We may ignore the law, but it will not cease to operate. Having destroyed the power of the trust to cheapen the cost of production and sale, the result must be increased cost to the consumer. Let us never lose sight of the fact that no manufacturer, whether a trust, an independent corporation, or an individual, ever can or ever does for any considerable period absorb and assimilate losses incident to increased cost of production and sale, whether such losses are occasioned by increases in wages, or in the cost of raw materials, or otherwise. In the very nature of things it would be impossible to do so and remain solvent. Profit is the ultimate aim of all trade. The consumer not only pays the profit, but the total cost of production, sale and delivery.

The question of cheap distribution is one which presses harder and harder upon the independent small manufacturer. It is a question of the relative cost of selling his goods as compared with that of his competitors, the trusts. Does anyone suppose, when the trusts are dissolved, that the small manufacturer will be better able thereby to reduce his selling cost? Let us take, for example, the manufacturer of a single complete line of agricultural implements—plows, including,

of course, harrows, drills, seeding machines, rakes, cultivators, etc. In order to sell these goods to the trade he must maintain a sales organization and a depot at each of the principal cities in the farming region. His big competitors cover the field, and so must he. But inasmuch as he manufactures only one line, his selling expense in proportion to sales is too great as compared with that of his rival—perhaps a trust—which may have brought together in combination a group of plants manufacturing all lines, or many lines of farm implements and utensils, from threshers, buggies, wagons and automobiles, down to plows, windmills, gas-engines and cream separators. The selling of these several lines may be effected at but slightly increased cost over a single line. This is one of the most stubborn and pressing facts confronting American manufacturers in all save the few lines where there is little competition or where selling costs are nominal. The inevitable result of this pressure is to draw the independent into some form of selling alliance. The original and natural plan was to combine in competing lines, incidentally removing as many competitors as there were units absorbed; but (except where a monopoly might have been so formed) the removal of a competitor remained a mere incident, the chief thing gained being a scaling down of selling costs, thereby strengthening ability to meet the remaining competitors in the field. The method was effective and insured profits without any advance in prices. But since this method had become illegal, the same necessity still exists, and we find a tendency to form new groups of non-competing but allied lines. This re-grouping must and will go on, unless prices are to be still further advanced.

Consider the great mail order houses and department stores; how they have grown and are prospering. How many thousands of small merchants, manufacturers and dealers have they put out of business? What is the secret of their growth and prosperity? It is merely a question of economical and efficient merchandising, and of cheap distribution, the buying or manufacturing of goods by wholesale and the retailing of them at low selling cost. This cannot be called trade piracy, nor oppression. The prosperity of the department store, which serves the urban population, and of the mail order house, which serves the rural districts, attests their popularity and proves their economic usefulness. And yet they do undoubtedly strangle the little fellows. If anyone doubts this, let him make inquiry of interior merchants and tradesmen throughout the country, and

even of the more pretentious dealers in small cities near the distributing centers. No farmer ever hated more violently, or for better reasons, a railroad which cut his farm in two, than do country merchants hate and fear the growing power of the big distributing stores. On questioning an officer of one of the large organizations of this kind, which is located in the middle west, and which commenced business "on a shoestring" not many years ago, he made the surprising statement that his company enjoyed its largest trade in the east, particularly in the states of New York and Pennsylvania. Being asked how he explained this singular fact, when the west and south naturally would be considered his best and most profitable fields, he said that the larger sales in the east were due to its denser population and to better distributing facilities, through the Rural Free Delivery Service. No doubt these reasons are good, but probably a truer explanation may be found in the violent hostility of the country press of the west and south, which naturally is in sympathy with local tradesmen. The eastern press is not so hostile, because the influence of the invasion is less apparent there. These stores prosper because they give better values for the same money than the small dealers can give. And yet, among the reasons urged recently by retail cigar dealers of New York for governmental interference with the business of the United Cigar Stores, was that they can and do give the people better values for the same money. Even if these stores are a trust, under strict interpretation of the law, is it possible, in the face of such statements on the part of independent dealers, to believe that the dissolution of the combination would be followed by a fall in retail prices of cigars?

Again, to emphasize the controlling importance of the questions of sale and distribution, let us examine into the case of the packers, who have so long been under fire. Their organizations and trade agreements, if such exist, may constitute a trust; perhaps they do. But even so, an examination of the facts will show that the public, who are the consumers of meat, and the farmers and stockmen, who are the producers of it, are the chief beneficiaries of the combination. In view of popular misunderstanding and prejudice, and of vigorous prosecutions of the packers by the government, these statements require analysis and proof. The packers buy a bullock, say of ten or twelve hundredweight, paying at present prices from sixty to seventy-five dollars per head on foot. They slaughter the animal,

sell and distribute the product, manufacture hide, hair, bone, blood, offal, hoofs and horns, and receive a clear gain of less than one dollar per head. Even this small profit is secured only by employing the most exact methods and exercising economies unknown and impossible under old methods of local slaughter. The public receives the best of meats, carefully inspected by the government, both on foot and dressed, free of the possibility of diseased conditions, slaughtered and refrigerated under the best possible sanitary surroundings, transported and delivered clean and wholesome to the consumer. The producer receives a better price than he ever did or could if the "system" were dissolved and cattle were butchered at hundreds of small slaughter houses scattered everywhere. The yearly profits of the packers on the total volume of their business amount to less than two per cent. Can any large industry, whether conducted as a private enterprise, as an independent company, or as a trust, safely operate on a smaller margin? It is so small, in fact, that the slightest blunder or miscalculation would turn the business into a loss. Where the profits are so slender in proportion to volume, and are gained only by the strictest economy in every department, is it conceivable that prices to the consumer would be reduced by terminating these methods? Under such conditions, in so important an industry, can there be any reason for further regulation than the prevention of unfair competition or the use of oppressive methods against the independents? The profits of the "Packers' Trust" on gross sales are less than one-third in percentage of those of the big mail order houses, whose existence already has been shown to be an economic benefit. That the packers' methods are neither unfair nor oppressive to competitors and independents is proved by the fact that a number of independents are operating successfully and peacefully in competition.

Take the Steel Corporation, now under attack by the government. Before its formation the steel trade was chaotic, and exhibited a series of peaks of high prices and valleys of depression that were truly demoralizing. Through efficiency and economies in production and sale, and with no unfair or destructive methods, the corporation has created and maintained for ten years a condition of equilibrium and stability in the trade unknown before. It has not extorted high prices in comparison with other lines of manufacture. Its methods and operations have been open, and its affairs, including its profits,

so fully and frankly exhibited to the public, that the corporation has been held up as an example and a model. Its policies have been sound and conservative, its securities have been bought by the public and accepted as standard industrials. Can anyone fairly say that this company's operations have been subversive of public interests? Can any open-minded person believe that a disintegration of this company will benefit the public or the company's 120,000 shareholders? Does the public generally know that in the interests of economy of production this corporation has expended probably one hundred million dollars in building great steel plants at Gary, Indiana? This site, at the foot of the Great Lakes, was selected in the light of experience and practical knowledge as being the one particular place in this country where the ore, the fuel and flux, necessary for making steel, could be most economically assembled in their raw states, manufactured and distributed on a large scale. All this has been done, and a new city created where sand dunes were before, not in order to raise prices, but to reduce cost. This great industrial development is the concrete result of a combination of capital, brains, experience and business sagacity of the highest order. Whenever such combinations exist in the aid of trade, as in this instance, their disruption, far from doing good, will amount to public calamities.

Let us take another example, which is chosen because it involves one department of the business of a great corporation, which though highly competitive in other departments, is in this particular one nearly an absolute monopoly, and as unique as it is useful and beneficial in its monopolistic operations. I refer to the sleeping car business of the Pullman Company. As manufacturers of all kinds of passenger coaches, freight and street-railway cars, they are strong and active competitors, as all car-builders know; but as owners and operators of sleeping cars, and certain classes of parlor cars, they have no competition. If there were not some good reasons, beneficial alike to the railways operating these cars and to the public using them, this condition of monopoly could not exist. These reasons are simple and economically sound. They lie in the fact that outside of two or three of the big systems no railway uses normally in its passenger service, or could afford to own, more than one-half the number of sleeping coaches and tourist cars which may on occasion be required to move its seasonal or special excursion traffic. It would be a dead loss to have capital permanently invested in idle cars, or in those used

only on such occasions. In the same manner exactly would it be unprofitable in operation and impossible in competition, for a manufacturer having high seasonal requirements of capital for short periods to pay in as permanent capital an amount equal to his maximum needs. The alternative is to borrow. The Pullman Company for this reason has grown to be a clearing house for high class standard sleeping car equipment, upon which all the "borrowing" roads may and do draw, on short notice, according to their needs, paying only for what they use and for the time the cars are employed. The total of such equipment maintained by the Pullman Company is designed to be equal to the requirements of all the roads at any given time, as has been demonstrated in their experience. In physical railroading it is a unique application of the Central Bank idea of concentrating gold reserves for effective and economic use. In the case of the Pullman Company great economies are effected, for there are not large numbers of idle cars. The company can, and does, therefore, maintain uniform and incomparably superior service, and supply better and cleaner cars at far less cost to the roads and to the public than the railways themselves could do. Take for example the easy and expeditious moving of the crowds that flock to Grand Army meetings, political conventions, etc. Every road leading to the place of meeting makes requisition and is supplied the needed cars. Without such an arrangement the moving of crowds with speed and comfort would be impossible. Shall we break up this mutually satisfactory service because it is a monopoly, and either go without sleeping cars, or pay higher prices for less clean, comfortable and well served ones? The same idea underlies the operation of livestock car lines, refrigerator cars, and others of like kind. The principle might with great economy be utilized on a large scale in the case of freight cars, for the lack of which traffic often is impeded on the poor and smaller roads.

While we are on the subject of monopolies, it may be well briefly to discuss the two remaining classes with which we have to deal in this country. Fortunately neither is charged with any dangers to the public. They are:

#### I. Local Monopolies of Public Utilities.

This class includes the telephone, water, gas, electric light and street-railway companies, and similar corporations depending upon public franchises. Generally they are strictly regulated, and have

limited franchises; more often than not the public either shares in their profits, or regulates their charges, or both. Their operations are no longer a menace, and they need not be discussed.

II. Trade Monopolies, based upon inventions or discoveries, the basic ideas of which are protected by government patents.

The essence of these monopolies is granted by the government itself in the letters patent, which confer for a period upon the patentee and his assigns the right to exclusive use and benefit of the thing patented. The lawful owners of such monopolies are entitled to enjoy their benefits, and to the full protection of law, except when they endeavor to oppress others in the enjoyment of similar rights based upon other patents. When they seek to oppress or to destroy the business of others operating under similar or competing patents, they properly come within the monopoly act and the law seems amply broad to restrain them. There appears no danger, therefore from this source, nor any reason seriously to consider its economic aspects. The patent law is wise and just. The purpose, of course, is to stimulate useful inventions and discoveries, and it has been entirely adequate for that purpose.

The burden of the foregoing arguments and illustrations may be summed up in the following postulates:

I. Corporations are useful and indispensable instruments of modern commerce.

II. Large aggregations of capital are necessary in a great nation like the United States for the most efficient production, transportation and distribution of the necessities of life.

III. Thus far there has been found no satisfactory substitute for the corporation as a means of amassing, holding permanently under legal control, and efficiently employing large capital in industry and trade.

IV. That the efficiency of the corporate unit may be, and often is increased by combination with other units in the furtherance of trade.

V. Corollary: 1. The best interests of the public will be served by the preservation of large corporations and combinations of capital. 2. The remedy for all trust and corporation evils lies not in their disruption, nor in the strangulation of their efficiency, but in their regulation, with due regard to their rights and objects.

In the light of these evident truths, it would seem that public

hostility towards large corporations merely as such is not justified and that the policy of arraigning such corporations on the charge of being trusts is not only a mistaken one but a policy likely in the long run to be highly detrimental to public welfare. This statement is not intended as a criticism of officers of the government who are prosecuting the trusts. No one can in fairness make such criticisms. The law is on the statute books, and it is their sworn duty to enforce it. But the course which would insure the greatest good to the public lies not in disintegrating and disrupting trusts, whose existence in the main is based upon sound principles of economy, but in the publicity of corporate affairs. And this means not only trusts and combinations of large capital, but those of every size and dimension doing an interstate business. The proposal to regulate by means of federal incorporation is of doubtful legality and wisdom. Such an undertaking not only is unnecessary but involves the surrender by the several states of a portion of their sovereign powers, with which they would be slow to part. The same object might better be accomplished by means of a federal license granted to all corporations carrying on interstate trade; the granting of such a license being contingent upon each corporation paying a tax on its earnings, as is now required, and supplying to the Commerce Commission, or some other competent body, detailed statements of its affairs. The statements should set forth fully the corporation's financial position, and the amount of its earnings and dividends, and should be signed and sworn to by certain officers and attested by a majority of the directors under penalties for falsification, and should be published annually in a report to Congress. Such details as the names of a corporation's shareholders, its business secrets such as cost and selling prices of goods, its expenses, and all other similar information necessary for the Commission to determine the fairness or unfairness of the company's methods, should be supplied under oath, but such information should not be made public so long as the business was conducted lawfully. The commission of any act in restraint of trade could be punished in one of two ways, or both. First, by the revocation of license, the mere threat of which generally would be ample to insure proper conduct; or by proceedings under the statute. The Commission should have no power to regulate prices. The theory of such regulations is unsound and contrary to all laws of trade. In practice it would undermine and eventually destroy national pros-

perity. The right to gain profits in trade by all fair and legitimate methods belongs inherently to every man. So long as an individual or a corporation employs only these methods the right to trade should neither be denied nor curtailed. "Fair and legitimate trade methods" should be broad enough in meaning to include not only trade secrets and processes, but economies, improved machinery, all the fruits of energy, thrift, skill, and special training, foresight, natural manufacturing and selling ability, and of that sagacity which we may call trade instinct. These are of the very essence of successful and prosperous trade, I may say the very red corpuscles of its blood. Persons and corporations using only such methods in trade are entitled to all their profits whatever they may be, and are entitled to buy and sell at whatever prices they choose. Such methods reward efficiency and stimulate trade. They inflict no injuries upon anyone, but result only in good to the public.

But the Commission should have ample powers to ascertain, suppress and punish all unlawful competition in restraint of trade. Such a plan of dealing with corporations, big and little, is reasonable, just and practicable. It is constructive. It would take business permanently out of politics, than which no greater blessing in respect of trade could befall the people. It would set at rest all fear of oppression and all dread of the "baneful influence" of the trusts on prices.

In considering these important but vexatious problems, let us strive to get at the facts; let us be just towards capital; let us be honest unto ourselves, and fair to the public. When in this state of mind our judgments are likely to be righteous.